

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the cross hatching of Fig. 1 is inconsistent with plastic material as seen in Figs. 2-4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include at least one technical, or inventive, feature of the claimed instant invention.

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed

Art Unit: 3781

150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it contains the objectionable phrases "according to the present invention" and "the present invention provides". Correction is required. See MPEP § 608.01(b).

#### ***Claim Objections***

5. Claims 1-5 are objected to because of the following informalities: "bend and deformed" is grammatically incorrect. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

6. Claims 2-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

It is unclear what is intended by "the positioning protrusion is *integrated* with the inner seal". Since the inner seal projection is formed on the inner surface of the top wall and the positioning protrusion is provided on the inner surface of the top wall, the two structures are considered "integrated".

The structure of "a skirt-like shape" is not clearly set forth in claim 3 since a skirt can be straight, flared, or gathered.

Claim 3 recites the limitation "the opening seal projection" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3781

The preamble of claim 4 sets forth the combination of a container and a cap. The limitation of "a container opening" sets forth an additional container opening.

The phrase "a container-filled beverage" indicates the beverage is filled with a container.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Limanjaya (US 6,581,792). See figures 2 and 2A depicting a synthetic resin cap **1** comprising a cap body having a top plate and a cylindrical section extending downward from a periphery of the top plate; a circular inner seal projection **12** formed on an inner surface of the top plate and fits into a container opening; and a circular opening edge seal projection **10** formed on the inner

Art Unit: 3781

surface of the top plate and contacts an opening edge of the container opening, and wherein a positioning protrusion **13** integrated with the inner seal projection and is provided on the top plate that contacts the opening edge when the opening edge seal projection bends and deforms until contacting the cap body.

9. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Dutt (US 4,560,077). A beverage filled container (see the abstract) has a synthetic resin cap comprising a cap body having a top plate **12** and a cylindrical section **14** extending downward from a periphery of the top plate; a circular inner seal projection **30** formed on an inner surface of the top plate and fits into a container opening; and a circular opening edge seal projection **32** formed on the inner surface of the top plate and contacts an opening edge of the container opening, wherein the opening edge seal projection bends and deforms in an expanding radial direction until contacting the cap body at the time of attaching the synthetic resin cap to the container opening, and wherein a positioning protrusion **50** is provided on the top plate that contacts the opening edge when the opening edge seal projection bends and deforms until contacting the cap body. To the degree claims 2 is understood, the positioning rib is integrated with the inner seal projection.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US 6,126,027) in view of Dutt.

Art Unit: 3781

Thompson disclose a beverage filled container has a synthetic resin cap **10** comprising a cap body having a top plate **11** and a cylindrical section **12** extending downward from a periphery of the top plate; a circular inner seal projection **30** formed on an inner surface of the top plate and fits into a container opening; and a circular opening edge seal projection **26** formed on the inner surface of the top plate and contacts an opening edge of the container opening, wherein the opening edge seal projection comprises an erect cylindrical section **27** extending downward from the top plate and an expanding cylindrical section **25** spreads in a skirt-like shape from the erect cylindrical section and bends and deforms in an expanding radial direction until contacting the cap body at the time of attaching the synthetic resin cap to the container opening. Thompson is silent regarding a positioning protrusion being provided on the top plate that contacts the opening edge when the opening edge seal projection bends and deforms until contacting the cap body.

Dutt teaches it is known to provide a closure cap having an inner seal, opening edge seal and positioning protrusion for effective sealing of a container neck opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a positioning protrusion to the cap of Thompson. Doing so allows for more effective sealing of the container neck opening.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Limanjaya in view of Thompson.

Limanjaya discloses the claimed cap except for the opening edge seal projection comprises an erect cylindrical section extending downward from the top plate and an expanding cylindrical section spreads in a skirt-like shape from the erect cylindrical section and bends and

Art Unit: 3781

deforms in an expanding radial direction until contacting the cap body at the time of attaching the synthetic resin cap to the container opening.

Thompson teaches it is known to provide a opening edge seal projection comprising an erect cylindrical section extending downward from the top plate and an expanding cylindrical section spreads in a skirt-like shape from the erect cylindrical section and bends and deforms in an expanding radial direction until contacting the cap body at the time of attaching the synthetic resin cap to the container opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an expanding cylindrical section spreading in a skirt-like shape from an erect cylindrical section of the opening edge seal projection that bends and deforms in an expanding radial direction until contacting the cap body at the time of attaching the synthetic resin cap to the container opening. Doing so provides a sealing engagement with the cap to ensure the seal between the container neck opening and the cap is sufficient to protect the container contents.

### ***Conclusion***

13. It is noted that other rejections under 35 USC 102 and 103 are possible, but have not been set forth so as to not burden the examiner or applicant.

14. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to

Art Unit: 3781

and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art disclosures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

16. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

17. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3781

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

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